

1 Q You have an attorney by the name of David Klein; is that
2 right?

3 A Yes.

4 Q And Mr. Klein has been advocating diligently on your
5 behalf; is that true?

6 A Yes.

7 Q And as a result of that diligence, you entered into a
8 plea agreement with the United States, right?

9 A Yes.

10 Q You signed a piece of paper saying that you would plead
11 guilty to one count in this case, the conspiracy, and you
12 would cooperate, correct?

13 A Yes.

14 Q Mrs. Vo, in your mind do you believe that you have been
15 promised by the government that in return for your assistance,
16 you will receive a sentence of less than the 30 to life you're
17 looking at in federal court?

18 A I wasn't promised anything.

19 Q Okay. Were you led to believe that based on your
20 cooperation you would get sentencing consideration that would
21 get you a sentence of less than 30 to life?

22 A I was led to believe that I could get less time.

23 Q How much less?

24 A I'm not sure.

25 Q Well, how much do you think you're going to get?

1 A I don't know.

2 Q Isn't it also true that based on discussions with your
3 lawyer, you believe that when you get sentenced across the
4 street in state court, that that sentence can get rolled into
5 your federal sentence so you don't have them stacked one on
6 top of the other; isn't that true?

7 A Yes.

8 Q You expect to get concurrent time for your state sentence
9 and your federal sentence; is that right?

10 A I'm going to try to.

11 Q And that's the reason you're on the witness stand here
12 today, isn't it?

13 A Because I was called as a witness.

14 Q And because you entered into an agreement with the
15 government to testify, right?

16 A Yes.

17 Q And you have had extensive debriefings with the
18 government where they have talked to you at great length about
19 what you are going to say or what they want you to say; isn't
20 that true?

21 A Not about what they want me to say.

22 Q Has it been suggested to you as to how you should say
23 things as you testify in the course of this trial?

24 A Yes.

25 MR. WEIGHT: No further questions.

1 REDIRECT EXAMINATION

2 BY MR. MUEHLECK:

3 Q What promises were made to you, Mrs. Vo, about any
4 sentence you would receive?

5 A None.

6 Q What's your understanding of who decides what sentence
7 you'll get?

8 A The judge.

9 Q What judge?

10 A Judge Gillmor.

11 Q Did Mr. Klein make suggestions about exactly how -- what
12 to testify to?

13 A He -- can you repeat the question?

14 Q What did Mr. Klein tell you about testifying, when you
15 get up on the stand to testify?

16 A He helped guide me into how I should answer questions.

17 Q And what did he tell you to say?

18 A That -- I don't have to just say yes or no.

19 Q Did he tell you to tell the truth?

20 A And the truth.

21 Q Aiko and, what is it, Eugene were your tenants?

22 A Yes.

23 Q When were they your tenants?

24 A About a year before -- they left a few months before I
25 came to Hawaii, November of 2001.

1 Q Would they have left your place in the year 2001, left
2 the residence?

3 A Yes.

4 Q And how much of their stuff did they leave in your
5 residence in storage?

6 A In -- in the garage? I'm not sure. They had some boxes
7 in there. I'm not sure.

8 Q How much of the stuff did they leave in storage in the
9 bedroom slash office where the heat sealer was found or your
10 computers were, do you know? Did they leave anything there?

11 A I'm not sure what was in there.

12 Q And how about Marius and -- and -- Dinu, what's his --
13 what is it?

14 A Dinu.

15 Q Dinu. Did that person leave stuff in storage in the
16 bedroom?

17 A Not in the bedroom, no.

18 Q And how about Patrick, did Patrick leave stuff in storage
19 in the bedroom downstairs?

20 A I'm not sure what Patrick left at the house, but I know
21 we have some things of his.

22 Q And Khanh Vo, was he storing stuff in the bedroom
23 downstairs?

24 A I don't know.

25 Q Mr. Weight asked you about \$52,000 that your father was

1 holding. You remember that question?

2 A Yes.

3 Q Okay. Can you tell us what money that was, what made up
4 the \$52,000?

5 A I remember about 16 something was from a savings account
6 that was --

7 Q I'm sorry, I didn't mean to cut you off. From a savings
8 account? You have to answer verbally for the record. You
9 can't just shake your head.

10 A Yes.

11 Q Okay. Whose savings account?

12 A My savings account.

13 Q And where did the -- where did you get that money for the
14 savings account? How long have you had that savings account?

15 A Had it -- it was cashed in around '96 and I had it from
16 late '80s.

17 Q And in '96 you said it was cashed in, what do you mean?

18 A My father -- I gave him the power of attorney to cash it
19 in and use it for my attorney fees.

20 Q In the -- in the state case in Hawaii, the attorney fees?

21 A Yes.

22 Q And he was holding that money?

23 A Yes.

24 Q What other money comprised or made up that \$52,000 that
25 your father held?

- 1 A The \$11,000 mutual fund.
- 2 Q Whose mutual fund was that?
- 3 A Mine.
- 4 Q That have anything to do with your husband?
- 5 A No.
- 6 Q How long had you had that?
- 7 A For about five years.
- 8 Q You said your savings was, what, 16?
- 9 A 16 something, yes.
- 10 Q 16,000?
- 11 A Yes.
- 12 Q And mutual fund was 11,000?
- 13 A Yes.
- 14 Q What else made up the \$52,000 that your father had?
- 15 A The 10,000 that I gave back to my father.
- 16 Q All right. Explain what you mean 10,000 you gave back to
- 17 your father.
- 18 A He wrote me a check for 20,000 to help us with the house.
- 19 Q Okay.
- 20 A And I gave him back 10,000.
- 21 Q From the 20,000, you gave him ten back?
- 22 A Actually that was money that I gave back.
- 23 Q And he was holding that?
- 24 A Yes.
- 25 Q Was there other money, if there's anything else you can

1 tell us made up the 52,000?

2 A There was a -- there was a trip to Brazil that I took
3 with an ex-boyfriend that I had paid for and my dad promised
4 that he was going to pay for that. So instead of giving me
5 the money back, he just held it for me.

6 Q How much money was that?

7 A About \$3,000.

8 Q And any other amounts that you can tell us that make up
9 the 52,000?

10 A There was -- I remember a funeral that I gave money for
11 and my father added that. It was only \$500.

12 Q I'm sorry --

13 A It was a funeral, a friend of my family's that I put
14 money in a card for, attended a funeral. And there was hair
15 products that I purchased for my mom that I charged on the
16 credit card.

17 Q And? So how did that --

18 A Instead of giving me the money, my mom gave the money to
19 my dad and he held it.

20 Q Okay. The hair products and the funeral money, what
21 would that have added up to, if you can give us an idea?

22 A Close to 10,000 maybe. I don't know.

23 Q And the money, the income that you had with your husband
24 from this warehouse promotions, how much of that did you give
25 to your father?

1 A About 15,000. And actually that 10,000 that was given
2 back to my dad, that came from the parties, too.

3 Q That came from the?

4 A The parties.

5 Q So 15 and ten should be added together?

6 A Yes.

7 Q That money was then, what? You say, what, marital income
8 from the -- from the rental of the warehouse for these
9 promotions and parties?

10 A Yes.

11 MR. MUEHLECK: A moment please, Your Honor?

12 (Pause in the proceedings.)

13 THE WITNESS: The hair products might have been close
14 to 6,000 or 5,000, something like that.

15 MR. MUEHLECK: Thank you.

16 (Pause in the proceedings.)

17 MR. MUEHLECK: Moment please, Your Honor

18 (Pause in the proceedings.)

19 BY MR. MUEHLECK:

20 Q Mr. Weight asked you about going to Waimea Falls in
21 October, last October when you came and visited your folks?

22 A Yes.

23 Q Did you -- did you go to Waimea Falls?

24 A Yes.

25 Q What was that, what was that all about?

1 A It was a field trip that my husband and I and my baby
2 went on. We were chaperones.

3 Q Okay. And he asked you if that could have been that same
4 day that you took -- where's 1 -- oh, 1 is on the side --
5 when you went to Mail Boxes Etc. with the box, Government
6 Exhibit 1?

7 A Yes.

8 Q He asked you that question?

9 A Yes.

10 Q And you said -- what was your answer?

11 A I -- I don't remember what day it was.

12 Q That you went to Waimea Falls?

13 A Yes.

14 Q Do you remember where you were prior to going to Mail
15 Boxes Etc. with the box, what you were doing that morning or
16 that day before you went to the store Mail Boxes Etc., drove
17 there in the car with your husband? Do you know where you
18 were that day?

19 A Yes.

20 Q Can you tell us when you got up what you did that day or
21 where you went?

22 A I remember getting up and dropping my mom off to use the
23 car.

24 Q Whose car --

25 A My mom's car for the day.

1 Q Okay.

2 A I would drop her off at work and come back. And I
3 remember --

4 Q Was that -- what kind of car was that?

5 A Toyota Avalon.

6 Q Okay.

7 A And I remember --

8 Q Was that the car you were driving when you were arrested
9 at the airport?

10 A Yes.

11 Q Okay. After you dropped your mom off where?

12 A I dropped her off at work.

13 Q Which is?

14 A Pearl Kai Hairstyling.

15 Q All right. What time is that, roughly?

16 A About 8 o'clock.

17 Q Okay. Then where did you go?

18 A Then I came home and my husband said to get the baby
19 ready, let's go get something to eat. And I remember we went
20 towards Waikiki. And --

21 Q Then what did you do?

22 A And he stopped at a friend's house.

23 Q Who was driving?

24 A My husband.

25 Q In your mom's car?

1 A Yes.

2 Q Please continue. Where did you stop?

3 A He stopped at a friend's house and talked to a friend for
4 a few minutes. And then we went to an apartment near Ala
5 Moana.

6 Q Okay. What happened there?

7 A And he carried in a box.

8 Q Who carried in a box?

9 A My husband.

10 Q From where?

11 A From the trunk of the car.

12 Q Carried it in to where from the trunk of the car?

13 A Into this apartment building.

14 Q Had you been to that apartment building before, Ms. Vo?

15 A No.

16 Q What happened then?

17 A I took my daughter in the back room and while she played
18 I heard some --

19 Q You went into the apartment?

20 A Yes.

21 Q And your husband was where at that time?

22 A In the kitchen.

23 Q Of the same apartment?

24 A Yes.

25 Q Please continue. What happened then?

1 A I heard some vacuum sounds, sounded like the seal-a-meal.

2 Q Okay. And then what?

3 A And then we stayed there for about 20 to 30 minutes. And
4 then --

5 Q Did you see what he was doing, your husband?

6 A No.

7 Q When you heard the sounds, did you ever talk to him or
8 see him?

9 A I came into the living room.

10 Q And?

11 A And he told me to watch Kianna, to stay in the back room
12 and watch Kianna.

13 Q Did you go in the back room?

14 A Yes.

15 Q Then what happened?

16 A And then we left the -- left the apartment and he carried
17 out a garbage bag and the box.

18 Q What box?

19 A A big box.

20 Q And then what happened?

21 A And then we went into the car and then drove down the
22 parking lot and he asked me to throw away the bag, the garbage
23 bag and the big box.

24 Q And where did you do that, how did you do that?

25 A There was a dumpster downstairs.

1 Q And then what?

2 A And then -- and then we went to go get something to eat.

3 Q Where, if you recall?

4 A We went to North Shore Grinds. And then they didn't have
5 breakfast, I wanted to eat breakfast. And then we went to the
6 Big City Diner, and it was too late for breakfast.

7 Q So what did you do then?

8 A We went to another place, a hole in the wall plate lunch
9 place.

10 Q That's the name of it?

11 A Yeah -- I don't know the name of the place.

12 Q Okay.

13 A To eat and we had mahimahi and eggs.

14 Q Why is it you went to this second place or the -- the
15 hole in the wall place for eggs?

16 A Because there was a -- a Puka Guide that had different
17 places to eat.

18 Q Okay. Who wanted the eggs, who had the eggs?

19 A I wanted the eggs. We both had eggs.

20 Q And then what happened?

21 A And then before that, before we went inside the
22 restaurant is when he asked me about the package, asked me if
23 I could send out the package.

24 Q And you went from there to where?

25 A To the Mail Box Etc.

1 Q Did you see anybody else in the apartment?

2 A No.

3 Q Had you seen the box prior to that, Government Exhibit 1
4 prior to that?

5 A No.

6 Q You hadn't -- had you seen it in the trunk or anywhere
7 prior to that?

8 A No.

9 Q How did your husband get into this apartment?

10 A He had a key.

11 Q Had you ever been there before?

12 A No.

13 MR. MUEHLECK: I don't have any questions, but I
14 would offer Government Exhibit 18. 18 to Mr. Weight for the
15 record.

16 MR. WEIGHT: Your Honor, I'm going to object to 18
17 unless it's redacted.

18 MR. MUEHLECK: I agree.

19 MR. WEIGHT: Perhaps we need a bench conference on
20 that.

21 THE COURT: Well, you --

22 MR. MUEHLECK: I agree.

23 THE COURT: You get together over lunch and --

24 MR. MUEHLECK: I agree to a redaction.

25 THE COURT: See if you can agree on the redactions.

1 MR. WEIGHT: Okay.

2 (Counsel conferring.)

3 MR. MUEHLECK: Yup. We agree, Your Honor.

4 THE COURT: Well, something new every day.

5 MR. MUEHLECK: I must be wrong then, Judge.

6 MR. WEIGHT: I'm a reasonable man, Your Honor.

7 I have no further questions for Mrs. Vo, Your Honor.

8 THE COURT: I take it this is subject to recall?

9 MR. MUEHLECK: Yes, same.

10 MR. WEIGHT: Indeed, Your Honor, based on the bench
11 conference.

12 THE COURT: Very well. So you may step down.

13 (Witness excused)

14 MR. MUEHLECK: Can we approach, Judge?

15 THE COURT: Yes.

16 MR. MUEHLECK: Briefly.

17 (Bench conference on the record:)

18 THE COURT: I am going to deny the Motion to Strike
19 that you made, Mr. Weight. I find that that was relevant and
20 under 403, I find that substantially more probative than
21 giving rise to any unfair prejudice. So I will allow that
22 testimony.

23 We still have to take up the Giglio and 404(b). What
24 did you want --

25 MR. MUEHLECK: Well, my witnesses are told to be here

1 at 1 o'clock, Your Honor, and the one -- next one I have is
2 Mr. Tashima. Wayne Tashima. We called him earlier this
3 morning and we told him it looked like this afternoon.

4 THE COURT: Still have to call him after all this
5 testimony?

6 MR. MUEHLECK: Well, I think he's going to have to
7 say, you know, that there was no deal, there is no deal.
8 There was no plea agreement. She didn't plead. She didn't
9 negotiate this plea, because I don't think that's very clear
10 and I think it should -- we should explain that to the jury
11 that the law --

12 THE COURT: Apparently she didn't cooperate.

13 MR. MUEHLECK: Well, I don't think it is. I don't
14 think it's clear.

15 THE COURT: -- she was the only person involved so
16 she --

17 MR. MUEHLECK: Well, that's what we're doing. I
18 would like to break early if we could, and I can get him here
19 at 12:30 and the rest of my people here, and we're going to --
20 is the court going to argue Giglio today, allow us to argue
21 that today?

22 THE COURT: Well, what do your files look like?

23 MR. MUEHLECK: Judge, I don't have -- I've got
24 like -- I don't have many other witnesses except on this
25 Giglio matter. We're way ahead of schedule. I think my case

1 will -- if we argue Giglio, my case will be done Tuesday
2 morning. I've got, like, eight witnesses, six, seven
3 witnesses on this. The rest of my witnesses deal with Mail
4 Boxes Etc. issue of the other -- the packages. They deal --
5 there's a police officer and that's -- that's about it, Judge.
6 I've told them to stay back until we handled this issue. I've
7 got a Hawaiian Airlines lady that I've got on standby, give
8 her a call. I've got --

9 THE COURT: Airlines?

10 MR. MUEHLECK: Hawaiian Airlines on the who traveled
11 first, who was going home first. It's interesting that Mr. Vo
12 was going back home before Mrs. Vo. And had always planned
13 to.

14 THE COURT: Okay. Well, let's --

15 MR. MUEHLECK: Just thinking that we could have a
16 little bit shorter day today because we're not going to -- I
17 don't see how we're going to do six days. I thought we would
18 be in trial four days. We're in trial two days.

19 THE COURT: Couldn't you stretch it out?

20 MR. MUEHLECK: You want us to try, Judge? I mean --
21 we cleared the decks for next week, Your Honor.

22 THE COURT: Okay. I'll -- we'll go ahead and break
23 until 1:00.

24 MR. MUEHLECK: Until 1 o'clock? Thank you.

25 (End of bench conference.)

1 THE COURT: The court is going to deny the defense
2 Motion to Strike the testimony.

3 And we're going to break now, give you a little
4 longer lunch hour. Please be back at 1 o'clock.

5 (The following proceedings were held in open court
6 out of the presence of the jury:)

7 THE COURT: One thing I did want to take up with
8 counsel in conjunction with the 404(b) motion, and that is I
9 think I need an offer of proof as to what sort of a statement
10 the government would be attempting to elicit from Mrs. Vo. As
11 I understand it, it's something to -- to the effect that many
12 of the things in the house were the result of drug money or
13 something like that. What is that?

14 MR. MUEHLECK: Conversation is Mrs. Vo asking the
15 defendant about where the money -- the two conversations,
16 where the money that she saw him with came from.

17 THE COURT: Money or --

18 MR. MUEHLECK: Monies. Money, Judge. And his
19 response --

20 THE COURT: What -- she saw money lying around in the
21 house or what?

22 MR. MUEHLECK: Money in protein boxes, Judge.

23 THE COURT: Pardon me?

24 MR. MUEHLECK: Protein boxes, like weight-lifters,
25 body-builders use protein packages, and they put it in boxes.

1 It's boxed.

2 THE COURT: Like -- like how much? Or a lot?

3 MR. MUEHLECK: She saw him take hundred dollar bills,
4 a couple hundred dollar bills from it. It was obviously money
5 in protein boxes, had seen him on a couple of occasions and
6 questioned him about it -- this.

7 THE COURT: So she said: Where did the money come
8 from?

9 MR. MUEHLECK: Where is this coming from? And one
10 occasion saying: Never -- never mind where this comes from.
11 And then another occasion asking him about financing the house
12 and if it was -- if it was drug money. And he said: I'm
13 not -- not dealing drugs anymore. My drug-dealing days are
14 over.

15 This is in '98, while they're buying the house,
16 Judge, before they're married, before the house is purchased
17 in his apartment, his previous apartment before they move into
18 this house.

19 THE COURT: And she asked him: Where did the
20 money -- or where's the money going to come from for financing
21 the house, are you -- is this drug money?

22 MR. MUEHLECK: Yes. She also asks him, while he's in
23 this apartment before they buy the house, about a guy that's
24 died from steroids, a friend of his, a common friend, and if
25 he was involved in steroids, too. And his response was he's

1 not -- he's not doing -- he's not dealing drugs anymore -- not
2 dealing drugs anymore. Those days are over.

3 THE COURT: But we don't know what that relates to.

4 MR. MUEHLECK: Well, we -- we do know that he's had a
5 criminal conviction for -- under the state for distribution of
6 cocaine.

7 THE COURT: In '88. That's a long time ago.

8 MR. MUEHLECK: Well, again, I believe in my memo,
9 I've tried to set forth for the court that there's no hard,
10 fast rule about time.

11 THE COURT: Yeah, you came up with a case that
12 involved 13 years, I think. This is longer than that.

13 MR. MUEHLECK: Well, again, the position is, Your
14 Honor, that if we subtract the time when he's in custody,
15 which is appropriate, and the Ninth Circuit has affirmed
16 that --

17 THE COURT: Well, I think what the Ninth Circuit did
18 in that case that you cited was that involved ten years. I
19 think the conviction was ten years old and the trial judge --
20 I haven't studied the case that thoroughly, but the trial
21 judge simply said: Well, it's only ten years and moreover you
22 were in prison some of that time.

23 MR. MUEHLECK: That's correct.

24 THE COURT: And the Ninth Circuit simply affirmed
25 him.

1 MR. MUEHLECK: That's -- that's correct.

2 THE COURT: But didn't lay out some rule that custody
3 is necessarily excluded from the time consideration.

4 MR. MUEHLECK: No, but I -- I think what the Ninth
5 Circuit saying -- was saying that the judge's balancing and
6 taking that into consideration was appropriate.

7 THE COURT: I don't know. I mean you could read it
8 as the Ninth Circuit saying: Well, ten years is not too long
9 and we just won't really consider whether he was incarcerated
10 or not.

11 MR. MUEHLECK: Well, again, we're talking about a
12 conspiracy that starts in 2001. I -- I agree. We're talking
13 about cases -- a couple cases I've submitted -- excuse me --
14 submitted to the court talked about 13 years not being too
15 old. The other cases that I submitted talked about having no
16 hard, fast bright line is the expression they use, bright line
17 rule, and that the court has to look at all of it, the nature
18 of the -- the prior conduct, what that's offered for, how
19 similar it is, what the -- the issues are, what the crime
20 charged is.

21 At this point our position is that we have to show
22 knowledge, we have to show intent for both offenses.
23 Mr. Weight, in his request for instructions and in his
24 cross-examination and in his arguments, had -- has painted the
25 picture of his client as a businessman and an aspiring actor

1 and a body-builder who just happened to be living with someone
2 who is a big drug dealer, and that his presence with her is
3 sort of innocent, he's sort of just a bystander. He doesn't
4 have the intent and didn't join in a conspiracy, didn't have
5 knowledge of even what was going on apparently. That she's
6 away on these trips for months at a time, doing her thing.

7 So I think, I submit to the court, that a conviction
8 precisely for a distribution of drugs, although they call it
9 Promoting Dangerous Drugs in the Second Degree, by the
10 defendant is highly relevant for the government that has the
11 burden, the affirmative burden to prove these things.

12 THE COURT: And -- and it's your position that you
13 measure the time from the date of the -- of the crime which is
14 currently being charged rather than the date of the trial?

15 MR. MUEHLECK: No, I think it's -- the cases talk
16 about the time of the -- the particular crime because they
17 say -- well, the conviction, I should say -- they say that the
18 fact that he was convicted is one of the reasons that you know
19 that it's certainly good evidence; that there's a judicial
20 determination that the act was committed. The offense was
21 committed.

22 THE COURT: Well, what I was trying to ask you was,
23 is it your position that you measure the time ten years, 13
24 years, whatever --

25 MR. MUEHLECK: From the date of the conviction, Your

1 Honor?

2 THE COURT: -- from the date of the -- well, from the
3 date of the conviction to the date of the currently charged
4 crime --

5 MR. MUEHLECK: Yes.

6 THE COURT: -- or the date of the trial of the
7 currently --

8 MR. MUEHLECK: No, the date of the charged crime.
9 Not the date of the trial.

10 THE COURT: So it's your position that '88 would be
11 13 years then.

12 MR. MUEHLECK: To -- to 2001. Which is the intent at
13 this point.

14 THE COURT: Thank you. Do you want to say something,
15 Mr. Weight?

16 MR. WEIGHT: Well, Your Honor, I was handed the memo
17 this morning. I haven't had a chance to study it, the
18 response.

19 THE COURT: I haven't either. So I'm in the same
20 boat with you.

21 MR. WEIGHT: So I think we might both do well to read
22 it and study it a bit before --

23 THE COURT: I didn't mean to rule on it now. I just
24 wondered if you wanted to --

25 MR. WEIGHT: No, I don't want to make any comment on

1 it yet.

2 THE COURT: Okay. Let's break for lunch.

3 (A recess was taken from 11:45 a.m. to 1:05 p.m.)

4 (The following proceedings were held in open court in
5 the presence of the jury:)

6 MR. MUEHLECK: Like to offer Government Exhibit 18
7 into evidence at this time, Your Honor.

8 THE COURT: Very well. Any objections, Mr. Weight?

9 MR. WEIGHT: No, Your Honor. It's been appropriately
10 redacted.

11 THE COURT: Very well. 18 is admitted.

12 (Government's Exhibit 18 was received in evidence.)

13 MR. MUEHLECK: Call our next witness, Your Honor?

14 THE COURT: You may.

15 MR. MUEHLECK: Wayne Tashima. May I step outside for
16 a moment, Judge?

17 THE COURT: You may.

18 MR. MUEHLECK: Thank you.

19 (Pause in the proceedings.)

20 WAYNE TASHIMA,

21 called as a witness by the Government, having been first duly
22 sworn, was examined and testified as follows:

23 THE CLERK: Please be seated.

24 THE WITNESS: Thank you.

25 THE CLERK: Please state your name and spell your

1 last name.

2 THE WITNESS: My name is Wayne Tashima,
3 T-A-S-H-I-M-A.

4 MR. MUEHLECK: Excuse me, Your Honor.

5 DIRECT EXAMINATION

6 BY MR. MUEHLECK:

7 Q Mr. Tashima, how are you employed?

8 A I'm a Deputy Prosecutor with the City and County of
9 Honolulu.

10 Q And you've been an attorney how long?

11 A Approximately 23 years.

12 Q And do you know a Brenda Marie Cooper?

13 A Yes.

14 Q How do you know Brenda Marie Cooper?

15 A I represented her when I was doing defense -- criminal
16 defense work and I believe it was 1995, 1996.

17 Q Do you remember the nature of the criminal charges
18 against her?

19 A Yes, she was charged in state court with two counts of
20 Promoting a Dangerous Drug in the First Degree.

21 Q And do you recall what the drug was?

22 A I can't recall.

23 Q All right. You recall the resolution of that case or the
24 disposition of that case?

25 A Yes. She pled no contest to both counts and she was

1 sentenced to ten-year terms of probation for each count to run
2 concurrent.

3 Q Was there a plea agreement in that case?

4 A No.

5 Q Did you bargain with the Prosecutor's Office in that
6 case?

7 A We tried to, but we didn't reach any agreements.

8 Q How did you get a no contest -- how did you get a
9 probation sentence, ten-year probation then?

10 A The state law authorized probation for Class A felonies,
11 which these were, and my understanding or my belief is the law
12 was changed in 1995 to allow probation for Class A felony drug
13 cases. So, therefore, fortunately for her, she qualified
14 under that. We argued before Judge Perkins in state court and
15 he granted her probation.

16 Q Did Ms. Cooper have to give up information concerning her
17 drug activities in order to get this sentence?

18 A Not with my knowledge.

19 Q Did you have friends in the Prosecutor's Office that you
20 tried to pull strings with to get this probation sentence?

21 A I had friends, but no string pulling.

22 Q And no contest, why did you plead no contest versus
23 guilty?

24 A In state court it's common for defendants to plead no
25 contest because rather than acknowledge guilt, they'd rather

1 just not contest the charge, although it's treated the same as
2 a guilty plea, and they feel better about it.

3 Q The defendants feel better about it, you mean?

4 A Defendants feel better about it.

5 Q How often do you get no contest pleas when you were in
6 private practice doing defense work?

7 A I'd say 90 percent of the cases.

8 Q Did you have to negotiate in order to get a no contest
9 plea, did you have to negotiate with a prosecutor to get a no
10 contest plea for your client?

11 A No, it was defendant's choice. Although some judges did
12 require a guilty plea, others did not care and you could plead
13 guilty or no contest.

14 Q And how long were you in private practice doing criminal
15 defense work, sir?

16 A A little more than eight years.

17 Q And prior to that your legal employment was?

18 A I was with the city prosecutors from 1980 to 1988.

19 Q And I take it, you've -- you rejoined them when?

20 A In July of 1997.

21 Q And your position there since July of '97?

22 A I'm a team captain.

23 Q Which is, what does that mean in the rank and file?

24 A We have felony teams where we're divided up into five
25 teams and I captain one of the teams, which compose or is

1 comprised of approximately five attorneys.

2 MR. MUEHLECK: Moment, please, Your Honor.

3 (Pause in the proceedings.)

4 MR. MUEHLECK: I don't have any questions.

5 THE COURT: Mr. Weight?

6 MR. WEIGHT: Thank you, Your Honor.

7 CROSS-EXAMINATION

8 BY MR. WEIGHT:

9 Q Mr. Tashima, who was the Deputy Prosecuting Attorney
10 handling this case for the government?

11 A You're talking about the state case?

12 Q Yes.

13 A Brian Sano.

14 Q And did you know Brian Sano before you undertook
15 representation of Mrs. -- Ms. Brenda Cooper?

16 A I knew who he was.

17 Q You knew who he was, that's all?

18 A By name.

19 Q Okay. You didn't know him personally?

20 A No.

21 Q Okay. Prior to your undertaking this case, you said it
22 was in '95 or '96?

23 A The reason I say '95 is I believe the change of plea took
24 place in January '96. So, I would assume I represented her
25 late '95.

1 Q You're aware that the criminal number in this case is
2 93-0126; that's a 1993 criminal number, isn't it?

3 A Correct.

4 Q Meaning that the case was indicted at that time in 1993;
5 that's when it got its criminal number, didn't it?

6 A Correct.

7 Q And then you came into the case about when, do you know?

8 A The year, I -- I believe it's 1995. The date, I don't
9 recall.

10 Q Were you hired immediately, were you the first attorney
11 on the case? Or I should say the only attorney on the case?

12 A I'd be guessing, but I believe she had a Mainland
13 attorney initially that contacted me here and I picked up
14 representation in Hawaii.

15 Q And when she came to Hawaii, she had been living on the
16 Mainland and had to come back to Hawaii to face these charges?

17 A I assume that, since she had a Mainland attorney.

18 Q Okay. And she had bail set at \$20,000; is that right?

19 A The amount I'm not sure.

20 Q But she had bail set?

21 A Correct.

22 Q And she was released on bail after she came back to
23 Hawaii and -- and appeared in court?

24 A As far as I recall, yes.

25 Q Okay. Now, in 1993, which is when this case was

1 indicted, the law under which she was charged carried with it
2 only one sentence; isn't that true?

3 A Yes.

4 Q 20 years in prison, period; no probation, no nothing,
5 straight prison?

6 A Correct.

7 Q And you're saying that in 1995 that law was amended in
8 drug cases only for Class A felonies. That's what we're
9 talking about, right?

10 A Correct.

11 Q Amended so that a judge could in his or her discretion
12 grant probation?

13 A Correct.

14 Q Now, in the course of your representation, you attempted
15 to get the charges against her dismissed, didn't you?

16 A Yes.

17 Q And you filed a motion to that effect which you didn't
18 win?

19 A Yes.

20 Q The judge did not throw them out?

21 A No.

22 Q At which point you then say you tried to negotiate
23 something with the prosecutors, negotiate something with the
24 state?

25 A I can't recall if I specifically did something, but in

1 most cases you try as a defense attorney to get the charges
2 either reduced or some kind of sentencing consideration.

3 Q And did you talk to Mr. Sano in this case about that?

4 A I may have in terms of reducing the offenses to Class B
5 felonies.

6 Q Wouldn't it be normal, Mr. Tashima, in a circumstance
7 like this where the prosecutor says: Well, look, you know,
8 I'm not going to reduce this in grade from a Class A to a
9 Class B; if they were to tell you that, wouldn't you then at
10 least try to say: Well, look, if we plead straight up, that
11 is plead as charged, would you at least not oppose a motion to
12 get her out on probation? Wouldn't you do that?

13 A If the offense was probationable.

14 Q And this now was in 1995, '96, because by then the law
15 changed, you say?

16 A Correct.

17 Q So didn't you do that with Mr. Sano in this case?

18 A I can't recall if I asked him to take a position on that.
19 We may have pretried the case before Judge Perkins to get his
20 indication, and that's why she may -- she pled because of
21 that --

22 Q Sure.

23 A -- indication.

24 Q And a pretrial is kind of like a little preview for the
25 judge where you and Mr. Sano would go and sit down with Judge

1 Perkins, right?

2 A Yes.

3 Q And Judge Perkins would say: What's this case all about?
4 And Sano would say: Well, this lady is charged with selling
5 an ounce of crack and an ounce of coke to the DEA back in '91.
6 And he would say something like: Okay. Well, what are you
7 guys going to do with this, you going to trial or we got a
8 deal going here? And you would probably say: Well, we'd kind
9 of like to know what Your Honor might do if we enter a plea of
10 guilty straight up; isn't that about the way it would go?

11 A Guilty or no contest, correct.

12 Q Right. And the judge would likely say to you: Well,
13 tell me a little more about the case. And you would talk to
14 him about the background of the case --

15 MR. MUEHLECK: Well, I'm going to object if we're
16 asking for guessing how things --

17 THE COURT: Sustained.

18 MR. MUEHLECK: -- Would go.

19 BY MR. WEIGHT:

20 Q Okay. What went on in this case?

21 A The case itself?

22 Q No, what went on in the negotiations or the pretrial with
23 Judge Perkins?

24 A To be honest with you, I can't recall because there are
25 no notes that I have that reflect any kind of conversation or

1 pretrial.

2 Q Have you reviewed your file in the case?

3 A I did.

4 Q And based on your common practice at the time, can you
5 reconstruct with some degree of accuracy what almost certainly
6 went on at that pretrial conference?

7 A No, because I did not take any notes of that conference,
8 if there was one. I'm just saying that it's common practice
9 to have one in cases where you -- you want to get the judge's
10 indication.

11 Q And it's common practice to get the judge not to give you
12 a firm commitment but to say: Well, if these facts are as you
13 say they are, then I'll probably put her on probation?

14 A Correct, after he looks at the presentence report.

15 Q Right. And in this case you ended up pleading her
16 straight up to the two charges against her?

17 A That's correct.

18 Q Did Mr. Sano oppose probation at sentencing?

19 A I believe he did because it was the practice of the
20 prosecutors to oppose probation.

21 Q And you called witnesses on her behalf at sentencing?

22 A That I can't recall.

23 Q Isn't it a fact you called her father, Richard Cooper, to
24 testify?

25 A I know I called him, but it -- it may have been for the

1 motion.

2 Q Okay. And at any rate, you were able to get her ten
3 years of probation?

4 A I'd like to believe I convinced the judge of that.

5 Q Well, somebody did, Mr. Tashima; isn't that so?

6 A Yes.

7 Q And you are not now her attorney because obviously you're
8 working for the government?

9 A That's correct.

10 Q Prosecuting Attorney.

11 MR. WEIGHT: I have no other questions for
12 Mr. Tashima, Your Honor.

13 THE COURT: Any redirect?

14 MR. MUEHLECK: Yes, briefly.

15 REDIRECT EXAMINATION

16 BY MR. MUEHLECK:

17 Q And would that result of probation also be affected
18 because she had no criminal record?

19 A That would be a factor, but I can't recall what her
20 background was.

21 Q Okay. And she hadn't -- had to do -- she didn't have to
22 do anything for this, Mr. Tashima, to testify?

23 A No.

24 Q To incriminate people?

25 A No.

1 Q To give information to the police about what she knew?

2 A No. The only thing she did was to comply with conditions
3 of probation.

4 MR. MUEHLECK: Thank you.

5 MR. WEIGHT: Recross, Your Honor?

6 THE COURT: You may.

7 RECROSS-EXAMINATION

8 BY MR. WEIGHT:

9 Q Mr. Tashima, you picked up this case in either late '95
10 or early '96, according to the records; is that right?

11 A That's correct.

12 Q The events we're talking about occurred in 1991; isn't
13 that correct?

14 A As far as I recall, that's correct.

15 Q Are you aware of any deals that your client had
16 negotiated with or any cooperation she had given the DEA prior
17 to her being charged in state court?

18 A I can't recall any kind of deals.

19 Q Because you don't know?

20 A I don't know.

21 MR. WEIGHT: No further questions.

22 THE COURT: Anything more, Mr. Muehleck?

23 REDIRECT EXAMINATION

24 BY MR. MUEHLECK:

25 Q When you came into the case, Mr. Tashima, would it have

1 been common practice for you to talk to the other attorney to
2 see if there were any deals on the table or being discussed?

3 MR. WEIGHT: Objection, Your Honor. Vague and
4 ambiguous. What other attorneys?

5 MR. MUEHLECK: Not -- well, we talked about a
6 Mainland attorney.

7 THE COURT: I'll overrule the objection.

8 MR. MUEHLECK: Thank you.

9 BY MR. MUEHLECK:

10 Q Would -- go ahead.

11 A It would be common practice to discuss the case with any
12 counsel she may have had prior.

13 Q And the Mainland attorney brought you in?

14 A Yes, as far as I remember, that's what the sequence of
15 events was.

16 Q And do you remember any conversations about any deals
17 that were on the table in negotiations?

18 A The only thing I remember is that Mainland attorney
19 wanted to have someone represent her here or to sponsor the
20 Mainland attorney where he would come down and represent her
21 with a local attorney sitting on his side.

22 Q Sponsor the Mainland attorney before the local court?

23 A Correct, because he wasn't licensed here, but it turned
24 out that she just hired me outright.

25 MR. MUEHLECK: Thank you.

1 THE COURT: That's it?

2 MR. WEIGHT: That's it, Your Honor.

3 THE COURT: Thank you. You may step down.

4 THE WITNESS: Thank you, Judge.

5 (Witness excused)

6 MR. MUEHLECK: Call our next witness, Your Honor?

7 THE COURT: Please.

8 MR. MUEHLECK: Janette Freeman.

9 JANETTE FREEMAN,

10 called as a witness by the Government, having been first duly
11 sworn, was examined and testified as follows:

12 THE CLERK: Please be seated.

13 Please state your name and spell your last name.

14 THE WITNESS: It's Janette, J-A-N-E-T-T-E, Freeman,
15 F-R-E-E-M-A-N.

16 DIRECT EXAMINATION

17 BY MR. MUEHLECK:

18 Q Ms. Freeman, how are you employed?

19 A I work at Hawaiian Airlines.

20 Q And what is your position at Hawaiian Airlines?

21 A I'm manager of the legal department.

22 Q As the manager of the legal department, have you any
23 familiarity with the records kept by Hawaiian Airlines?

24 A Yes.

25 Q You ever had occasion to review records kept by Hawaiian

1 Airlines?

2 A Yes.

3 Q And as the manager of the legal department, have you ever
4 had occasion to testify --

5 A Yes.

6 Q -- concerning the records kept by Hawaiian Airlines?

7 A Yes.

8 MR. MUEHLECK: Approach the witness with 23 and 24,
9 Your Honor, if I could, please?

10 THE COURT: You may.

11 MR. MUEHLECK: Copy for the court (handing document).

12 BY MR. MUEHLECK:

13 Q Exhibit 23 marked for identification, would you take a
14 look at that, please, Ms. Freeman, and tell me if you can
15 identify that document?

16 A Sure. The first page is a copy of the electronic ticket
17 that's attached to the reservation record on pages -- the
18 following pages.

19 Q Okay. Are those records kept -- are they -- whose
20 records are they?

21 A Hawaiian Airlines.

22 Q Kept in the normal course of business?

23 A Yes.

24 Q By persons with a duty to make those records?

25 A Yes.

1 Q And keep the entries -- make the entries in the records?

2 A Yes.

3 Q All right. Does Hawaiian Airlines normally rely on the
4 entries in those records in its normal course of business?

5 A Yes.

6 Q And have you provided these records prior to court to the
7 Drug Enforcement Administration?

8 A Yes.

9 MR. MUEHLECK: Offer --

10 BY MR. MUEHLECK:

11 Q And 23 is what; a record for who, please, ma'am?

12 A For Ricky Vo.

13 MR. MUEHLECK: Offer 23 into evidence.

14 MR. WEIGHT: No objection.

15 THE COURT: 23 is admitted.

16 (Government's Exhibit 23 was received in evidence.)

17 BY MR. MUEHLECK:

18 Q Let's do 24 then. Take a look at 24, familiarize
19 yourself with it. Have you seen that before, Ms. Freeman?

20 A Yes.

21 Q What is that, please?

22 A It's the electronic ticket record for Brenda Vo attached
23 to the reservation record following this page.

24 Q And same question, kept by Hawaiian Airlines?

25 A Yes.

1 Q In the normal course of business?

2 A Yes.

3 Q By persons with a duty to make those entries?

4 A Yes.

5 Q And are the records relied upon in the operation by
6 Hawaiian Airlines in their normal course of operations?

7 A Yes.

8 MR. MUEHLECK: Offer that exhibit into evidence, 24,
9 Your Honor.

10 MR. WEIGHT: No objection, Your Honor.

11 THE COURT: 24 is admitted.

12 (Government's Exhibit 24 was received in evidence.)

13 MR. MUEHLECK: Your Honor, I have copies for the
14 jury. If I could pass them out?

15 MR. WEIGHT: Your Honor, I'm going to object to that
16 as a waste of time. The jury will get these in due course.

17 THE COURT: Yeah, I don't think that's necessary.
18 Let's proceed without that.

19 MR. MUEHLECK: Thank you.

20 BY MR. MUEHLECK:

21 Q 23 you said is an electronic ticket?

22 A Yes.

23 Q Okay. For a passenger by the name of Ricky Vo?

24 A Yes.

25 Q Can you tell us what this electronic ticket is, ma'am?

1 A It's --

2 Q What it represents?

3 A It represents a travel document. Before it used to be a
4 piece of paper that you checked in with and this is the
5 electronic version of that.

6 Q Can you tell us what trip -- does this represent a trip?

7 A Yes.

8 Q What is the trip it represents?

9 A Well, actually what it represents is his itinerary, which
10 is on the bottom. He was scheduled to go from Los Angeles to
11 Honolulu on October 1st and return Honolulu/Los Angeles on
12 October 5. That was what the ticket was purchased for. And
13 the document activity line is where we actually -- what we
14 call a lift of a ticket, where you pull the ticket for travel,
15 and he traveled on October 1 from Los Angeles to Honolulu.

16 Q Okay. Can you tell us looking at it if -- looking at the
17 document, not just the front page but the other pages, if
18 there were any changes to his travel itinerary?

19 A Yes, there were several changes.

20 Q Please explain.

21 A He originally booked to leave on the 4th of October on
22 the same --

23 Q To leave where?

24 A I'm sorry, Los Angeles -- I mean Honolulu, his return --
25 on his return leg. So he came to Honolulu on the 1st. And

1 it's the return that he made changes on.

2 Q What changes -- when were the changes made, can you tell
3 us?

4 A On -- initially when he made the reservation on September
5 30, he changed the return from the 4th of October to the 5th
6 of October. And then he subsequently changed it to the 6th of
7 October, and he was supposed to depart on the 6th of October,
8 and when he appeared at the airport, he was supposed to pay
9 \$100 for the date change.

10 Q When was the change in the travel made?

11 THE COURT: Which change?

12 BY MR. MUEHLECK:

13 Q The last change we're talking about, the 6th. It was --
14 he was supposed to travel on the return on the 6th, or what is
15 the date --

16 A Right -- well, okay. On the 5th of October, he was
17 suppose -- I'm sorry. On the 30th of September, he changed it
18 to travel on our Flight 4, which is the red eye, on the 5th of
19 October.

20 Q So red eye back from Honolulu to California?

21 A To Los -- yes. And then --

22 Q This is the day he made the original reservation, the
23 30th --

24 A Right.

25 Q -- of September of the year 2002?

1 A Right. And then on the 4th of October, there was a
2 schedule change and he was still supposed to go back on the
3 5th, but they ticketed, because it was a date change from the
4 4th to the 5th, so they ticketed for the 5th. And then --

5 Q Did he make that flight on the 5th?

6 A No, he didn't.

7 Q Why? Can you tell us?

8 A It looks like he wasn't going to make the flight. So
9 they -- Brenda Vo called in and changed it to the 6th.

10 Q And what day was that change made?

11 A On the 5th of October.

12 Q So he was originally scheduled to return from Honolulu to
13 California on what day?

14 A 5th.

15 Q Originally. And that was the day the reservation was
16 made, on the 30th of September?

17 A Right.

18 Q And then it was changed the day it was made, the same day
19 it was changed?

20 A Well, originally it was on the 4th.

21 Q Okay.

22 A So then it changed to the 5th, that same day.

23 Q Right.

24 A And then on the 5th of October, they changed it to the
25 6th of October.

1 Q Okay. And on October 4th --

2 A Mm-hmm.

3 Q -- was there any activity on the record to show a change?

4 A On October 4th, the only thing that it shows is that they
5 ticketed on the 4th for the 5th.

6 Q Okay. An electronic ticket again?

7 A Correct. Correct.

8 Q Let me ask you to look at the next document, which is the
9 Exhibit 24. You said this is for a Brenda Vo?

10 A Yes.

11 Q And looking at the electronic ticket and in comparison --
12 Brenda Vo's electronic ticket in Exhibit 24 to Rick Vo's
13 ticket in Exhibit 23, can you tell us anything about when the
14 tickets were issued or reservations were made or anything like
15 that?

16 A Brenda Vo's Los Angeles/Honolulu travel was October 1
17 returning on October 9. And --

18 Q What day was she supposed to return from Honolulu to
19 California?

20 A 9th of October.

21 Q All right.

22 A And the activity shows that she did travel on the 1st,
23 the ticket was lifted and -- but there was a refund on the
24 return on the 18th of March.

25 Q Of this year?

1 A Yes.

2 Q Okay.

3 A So she didn't take that trip.

4 Q All right. Any changes in the records, do you see any
5 changes, can you find any records of changes in the October
6 9th date?

7 A Yes.

8 Q What are the changes?

9 A When she initially made the reservation on the 30th of
10 September, she also -- she was originally on Flight 2 on the
11 9th of October, but then changed it to Flight 4, which is the
12 red eye. Flight 2 leaves in the afternoon. And -- and then
13 she called back and changed it back to the afternoon flight
14 and canceled the red eye flight on the same day.

15 Q So we're just changing the times of the departures on
16 October 9th?

17 A Correct.

18 Q Any other changes that Brenda Vo made to her ticket or
19 are made to her reservation on that trip?

20 A And then on -- let me see, on the 1st of October, I think
21 probably when she checked in at the airport, I'm not sure if
22 that's the right time, but on the 1st of October, they're
23 reverifying that she has the seat on Flight 2, which is the
24 afternoon flight, on the 9th of October.

25 Q So her return is always on the 9th of October?

1 A Correct.

2 Q Just the -- which flight it is, red eye or afternoon,
3 changes?

4 A Correct.

5 MR. MUEHLECK: Moment please, Your Honor?

6 (Pause in the proceedings.)

7 BY MR. MUEHLECK:

8 Q And the times that are on here, you're reading what
9 times, ma'am?

10 A The time stamp on each entry is Tulsa, Oklahoma time
11 because that's where the server for our reservation system
12 resides.

13 Q Did they come over together on the same flight, Brenda
14 and Rick Vo?

15 A Yes.

16 Q When you change flights, is there a charge?

17 A Yes, there's a -- what we call an add/collect fee, and if
18 it's a date change, it's a \$100 fee, if it's the same class of
19 service is available.

20 Q Did Rick Vo incur any changes of a hundred dollar fee in
21 the records, if you can tell us?

22 A Yeah, he would have -- if he had traveled, he would have
23 had to have paid a hundred dollars for the date change.

24 Q Are they told -- are customers told that when they change
25 their tickets?

1 A Yes, they are.

2 MR. MUEHLECK: Pass the witness.

3 MR. WEIGHT: No questions.

4 THE COURT: Thank you. May be excused.

5 (Witness excused)

6 MR. MUEHLECK: Call our next witness, Your Honor?

7 THE COURT: Please.

8 MR. MUEHLECK: Elaine Burton.

9 ELAINE BURTON,

10 called as a witness by the Government, having been first duly
11 sworn, was examined and testified as follows:

12 THE CLERK: Please be seated.

13 Please state your name and spell your last name.

14 THE WITNESS: My name is Elaine Burton. My last name
15 is spelled B, as in boy, U-R-T, as in Tom, O-N, as in Nancy

16 DIRECT EXAMINATION

17 BY MR. MUEHLECK:

18 Q Ms. Burton, let me ask you, are you employed?

19 A Yes.

20 Q How are you employed?

21 A I'm an evidence specialist for the Honolulu Police
22 Department.

23 Q How long have you been an evidence specialist for HPD?

24 A Since 1986.

25 Q And what are your duties as an evidence specialist with

1 HPD?

2 A I assist the police department in documenting and
3 processing the scene.

4 Q You have any training or any -- do any work with
5 collection of fingerprints?

6 A Yes.

7 Q Latent fingerprints?

8 A Yes, I do.

9 Q What training do you have in that?

10 A I have had a 40-hour course with the FBI and on -- on
11 duty training, and I'm a member of the International
12 Association of Identification, and I have qualified as a
13 senior crime scene analyst.

14 Q As an evidence specialist and crime scene analyst, have
15 you ever been called to testify for purposes of an expert for
16 the collection of latent fingerprints?

17 A Yes.

18 Q How many times?

19 A I -- I can't -- in 17 years, I guess quite a few times.

20 Q In what -- what courts?

21 A Circuit -- in district court and federal court.

22 Q And crime scenes, do a number of crime scenes before?

23 A Yes.

24 Q How many, roughly?

25 A 500.

1 MR. MUEHLECK: Approach the witness with Exhibit 9,
2 Your Honor?

3 THE COURT: You may.

4 BY MR. MUEHLECK:

5 Q Ms. Burton, have you seen Exhibit 9 before?

6 A Yes.

7 Q When have you seen that before?

8 A May 7th, 2003.

9 Q This year?

10 A Wednesday, yes.

11 Q Okay. And what was the occasion that you happened to see
12 it on Wednesday?

13 A Detective Jack Wright from HPD brought this material
14 to -- to the SIS office and I was assigned to --

15 Q SIS -- I'm sorry, SIS is what?

16 A Scientific Investigation Section. Sorry.

17 Q Thank you. Please continue.

18 A He came at about 11:55, and I was assigned to process
19 this evidence for latent fingerprints.

20 Q And did you do so?

21 A I did.

22 Q How did you do it on Exhibit 9, please?

23 A I used magnetic powder to process the plastic surfaces
24 that this material is made of.

25 Q And you put -- okay, what, powder on it and then what?

1 A I examined it with a magnifying glass and oblique
2 lighting, and recovered three latent prints from the -- an
3 item called a heat sealer.

4 Q What did you did -- how did you recover them, ma'am?

5 A I used tape to lift them, I put them on a card and filled
6 the card out according to protocol, and submitted them for
7 examination on the 5/8, the next day, at 7:55 in the morning.

8 Q What was the quality of these prints in your opinion?

9 A I thought they were possibly identifiable.

10 Q Okay. And who were they submitted to?

11 A Just to the I.D. section. There's a log that we fill out
12 and there are examiners, there's more than one, and the cards
13 are submitted with a chain of custody to a box, and I followed
14 the protocol.

15 Q And the examiner, is that what you submit them to? What
16 is the purpose of submitting them to an examiner, the latent
17 prints that you pull up?

18 A My understanding is that they at first examine the prints
19 for quality, and then if they are deemed identifiable or
20 comparable, the prints are compared to inked prints, perhaps
21 those are submitted by or recommended by the detective who is
22 handling the case.

23 Q Known prints of possible suspects; that is known
24 individuals that they've been identified with their prints?

25 A That's one -- that's one approach, yes.

1 MR. MUEHLECK: Nothing further, Ms. Burton.

2 Your Honor.

3 MR. WEIGHT: No questions.

4 THE COURT: Thank you. You're excused.

5 (Witness excused)

6 MR. MUEHLECK: Call our next witness, Your Honor?

7 THE COURT: Please.

8 MR. MUEHLECK: Stephanie Kamakane.

9 STEPHANIE KAMAKANE,

10 called as a witness by the Government, having been first duly
11 sworn, was examined and testified as follows:

12 THE CLERK: Please be seated.

13 Please state your name and spell your last name.

14 THE WITNESS: Stephanie Kamakane, K-A-M-A-K-A-N-E.

15 DIRECT EXAMINATION

16 BY MR. MUEHLECK:

17 Q Ma'am, let me ask you, how are you employed?

18 A I am employed by the City and County of Honolulu,
19 Honolulu Police Department.

20 Q In what capacity?

21 A My title is a fingerprint identification technician.

22 Q What does a fingerprint identification technician do?

23 A Examine crime scene prints and try to effect
24 identifications with unknown prints to the known. Also
25 unidentified decedents.

1 Q How long have you done that?

2 A Since 1988.

3 Q Were you recently requested by Mr. Jack Wright to do an
4 examination of three lift cards prepared by Elaine Burton?

5 A Yes.

6 Q Of the Honolulu Police Department?

7 A Yes.

8 Q When did you -- and did you do an examination, ma'am?

9 A I examined three lift cards, yes.

10 Q Did you have any prints to compare them to?

11 A Yes, I did.

12 Q What prints or known prints did you have to compare the
13 three latent prints to?

14 A I do not recall their names, their specific names.

15 Q All right. Did you prepare a report, ma'am?

16 A Yes, I did.

17 MR. MUEHLECK: Approach with 22 marked for
18 identification, Your Honor.

19 THE COURT: You may.

20 BY MR. MUEHLECK:

21 Q Ms. Kamakane, can you identify Government's Exhibit 22
22 marked for identification?

23 A Yes.

24 Q How can you identify that document?

25 A My signature.

1 Q What is that document, please?

2 A This is a work request.

3 Q Submitted by whom to whom?

4 A Requested by Jack Wright to me.

5 Q And Mr. Wright is what, an investigator with the Honolulu
6 Police Department?

7 A Yes.

8 Q What were you asked to do in this request, please, ma'am?

9 A To compare three lift cards that were recovered from
10 evidence specialist Elaine Burton.

11 Q When did she -- I'm sorry, go ahead. When did she
12 recover them?

13 A On the May 7th, 2003.

14 Q And did you take some action when you -- you get this in
15 your possession, this work request?

16 A Yes.

17 Q And what action did you take after getting this work
18 request, Ms. Kamakane?

19 A I retrieved the latent prints that is requested under
20 that specific report number and did an analysis on the lift
21 cards to be compared against two subjects.

22 Q And what subjects were you comparing -- the latent --
23 latent print means what? I suppose I should ask you this.

24 A The word "latent" means hidden. And latent print is
25 something that's hidden and produced only through means of

1 dusting powder. When you put it on a little feather and you
2 dust the object, it becomes visible to the eyes. There are
3 other means of recovering latent prints also. But this is one
4 of the methods and this is a method that evidence specialist
5 Elaine Burton had used.

6 Q The latent prints that you received, in what fashion were
7 they received?

8 A They were three lift cards in an envelope. How she
9 recovered it was by dusting it, by dusting the object, putting
10 tape over and sealing it over a white background of index
11 card.

12 Q And you compared those latent prints to what, please,
13 Ms. Kamakane?

14 A Well, I examined the latent prints and deemed them to be
15 of no value.

16 Q What do you mean they were of no value, ma'am?

17 A They were just smudges and not enough characteristics in
18 the print itself to be compared to anyone.

19 Q How long have you been doing this, this type of work?

20 A Since 1988.

21 Q Did you have a set of prints to compare them against?

22 A Yes.

23 Q Whose prints did you have to compare them against?

24 A A Ricky Vo and a Brenda Vo.

25 Q And when you say they didn't have enough characteristics,

1 what do you mean, the latent prints didn't have --

2 A What is called a points of identity, there were not
3 enough distinct characteristics in the prints that I examined
4 to be compared to anyone.

5 Q You couldn't compare it against anyone?

6 A Correct.

7 MR. MUEHLECK: Nothing further, Your Honor. Offer
8 the exhibit, though, which is 22 marked for identification.

9 MR. WEIGHT: No objection to the exhibit. No
10 cross-examination.

11 THE COURT: 22 is admitted.

12 (Government's Exhibit 22 was received in evidence.)

13 THE COURT: Thank you. You may leave.

14 (Witness excused)

15 MR. MUEHLECK: Call our next witness, Your Honor?

16 THE COURT: Please.

17 MR. MUEHLECK: James Yuen.

18 JAMES YUEN,

19 called as a witness by the Government, having been first duly
20 sworn, was examined and testified as follows:

21 THE CLERK: Please be seated.

22 THE WITNESS: Thank you.

23 THE CLERK: Please state your name and spell your
24 last name.

25 THE WITNESS: My name is James Yuen. Last name is

1 Y-U-E-N.

2 DIRECT EXAMINATION

3 BY MR. MUEHLECK:

4 Q How are you employed, Mr. Yuen?

5 A I'm employed as a special agent with the Drug Enforcement
6 Administration out of Honolulu, Hawaii.

7 Q How long have you been with HPD?

8 Excuse me. How long have you been with DEA?

9 A Since 1991.

10 Q Were you with HPD prior to being with DEA?

11 A Yes, sir, I was.

12 Q How long were you with HPD?

13 A I was there from 1981 to 1991.

14 Q And your duties with DEA are what?

15 A To investigate the Controlled Substance Act, Title 21, of
16 United States Code.

17 Q On October 6 of 2002, do you know if you were working
18 that day?

19 A Yes, I was.

20 Q What were your duties on that day?

21 A My duties was to assist Special Agent Rich Jones and
22 others in the -- looking for Mr. -- Mr. Vo, Ricky Vo.

23 Q Mr. Vo in the courtroom --

24 A Yes, he is.

25 Q -- Agent Yuen?

1 A Yes.

2 Q Point to him and tell me what he's wearing.

3 A He -- he's seated to my far right on -- on the table
4 wearing the bluish color shirt with collar.

5 MR. MUEHLECK: May the record reflect the witness has
6 indicated the defendant, Your Honor?

7 THE COURT: The record will so reflect.

8 BY MR. MUEHLECK:

9 Q And where were you looking for the defendant on the 6th
10 of October of last year?

11 A It was at the Honolulu International Airport.

12 Q Was the defendant found at the airport on the 6th of
13 October by federal agents last year?

14 A Yes, he was.

15 Q Do you know if he was taken into custody?

16 A Yes, he was.

17 Q Subsequent to his being taken into custody, you know if
18 any property was taken from him or from a vehicle?

19 A Yes.

20 Q What was taken, do you recall?

21 A Well, also in -- inside the vehicle were -- was Mr. Vo
22 and Mrs. Vo, and -- and they were both placed under arrest and
23 taken from them were their properties.

24 Q Do you know if any particular objects were taken from
25 Mr. Vo and Ms. Vo?

1 A Personal items, they were to include self -- cellular
2 telephones.

3 Q Did you take any cellular telephones from Mrs. Vo?

4 A I was in possession of her purse and inside her purse
5 there were two cell -- cellular phones from Ms. Brenda Vo.

6 Q What was done with those cellular phones, Agent Yuen?

7 A What I did is that I extracted the numbers, the telephone
8 numbers from one of the cellular telephones inside of her
9 purse.

10 Q Can you tell us the make of that particular phone?

11 A There were two phones, I believe one of them was a
12 Nextel.

13 Q And how did you extract numbers, can you explain to the
14 jury, please?

15 A Okay. Basically turn the phone on, scroll through the
16 menu items, anything in the phone such as names, recent calls,
17 personal information.

18 Q When was that done in relationship to Mrs. Vo and
19 Mr. Vo's arrest on the 6th of October?

20 A Okay. Well, my -- my extraction of the phone started
21 about a little -- after 11:00 p.m., and the arrest was
22 sometime around 9:00-ish p.m.

23 Q Did you make a record of this -- of this information?

24 A Yes, I did. As one of -- when I was looking through the
25 phones, I would write down on a note pad the -- the

1 information from the cellular phones.

2 Q And was there a particular -- what -- what is the entries
3 called, can you tell us if it's a memory, or what are they
4 called for like the recorded recent calls and for the
5 memory -- the memory of the names; do you recall the features
6 on the phone?

7 A I would have to review the notes that I had taken that
8 night.

9 MR. MUEHLECK: May I approach the witness?

10 THE COURT: You may.

11 BY MR. MUEHLECK:

12 Q Do you have a copy with you, Agent Yuen?

13 A No, sir, I don't.

14 MR. MUEHLECK: May I approach the witness, Your
15 Honor?

16 THE COURT: You may.

17 MR. MUEHLECK: I've given a copy to defense, Your
18 Honor.

19 BY MR. MUEHLECK:

20 Q Yeah, turn it face down, if you would, please. Do you
21 recall the features on the phone that you looked at?

22 A Yes. Some of the features would be like a phone book
23 menu, features would be recent calls menu.

24 Q And did you make those recordings?

25 A Yes, I did.

1 Q And are they on that sheet of paper in front of you?

2 A Yes.

3 Q Let me ask you if you recall an entry or reviewing an
4 entry or a notation of the name Crash Om?

5 A Yes, I reviewed the notes and there is a name by that --
6 by Crash Om.

7 MR. MUEHLECK: May I, Your Honor?

8 THE COURT: You may.

9 BY MR. MUEHLECK:

10 Q Could you tell us if it was spelled like this, what you
11 saw on the phone of Brenda Vo that night?

12 A Yes.

13 Q And could you tell us if there was any more information
14 with that notation, the name Crash Om?

15 A Yes, associated with that name, I pressed the view --
16 well, the view item for that name and with it came a telephone
17 number.

18 Q Do you recall that telephone number off the top of your
19 head?

20 A No, I don't.

21 Q If you looked at your notes, would it refresh your
22 memory?

23 A Yes, it would.

24 Q Please refresh your memory or look at your notes.

25 A My memory has been refreshed.

1 MR. MUEHLECK: May I, Your Honor?

2 BY MR. MUEHLECK:

3 Q What was that number?

4 A The number in its entirety was (818) 530-2456.

5 Q (818) 530-2456?

6 A Yes.

7 Q This one, sir (indicating)?

8 A Yes.

9 Q Were there a number of other entries or entries that you
10 viewed on the phones?

11 A Yes.

12 Q And recent list of recent calls?

13 A Yes.

14 Q Did you see, happen to notice if there was a recent call
15 to this number?

16 A No, there weren't -- there wasn't any recent calls to
17 that number.

18 MR. MUEHLECK: Nothing further of the witness, Your
19 Honor.

20 MR. WEIGHT: No cross.

21 THE COURT: Thank you. You're excused.

22 (Witness excused)

23 MR. MUEHLECK: Call Agent Russell Woodward, Your
24 Honor.

25 RUSSELL WOODWARD,

1 called as a witness by the Government, having been first duly
2 sworn, was examined and testified as follows:

3 THE CLERK: Please be seated.

4 Please state your name and spell your last name.

5 THE WITNESS: Russell Woodward, W-O-O-D-W-A-R-D.

6 DIRECT EXAMINATION

7 BY MR. MUEHLECK:

8 Q How are you employed, sir?

9 A I'm employed by the City and County of Honolulu as a
10 police officer.

11 Q How long have you been a police officer with the Honolulu
12 Police Department?

13 A Over 28 years.

14 Q 28 years?

15 A Yes.

16 Q What is your assignment now, where are you working?

17 A I'm currently assigned to the Hawaii airport task force,
18 cross-designated with the Drug Enforcement Administration as a
19 task force officer.

20 Q Explain that to the jury, what do you mean you are
21 cross-designated, please?

22 A I'm cross-deputized as a federal agent to work with the
23 Drug Enforcement Administration.

24 Q Working as a cross-designated federal agent, are you
25 allowed to work with DEA and make arrests outside the state of

1 Hawaii?

2 A Yes, I am.

3 Q How long have you been cross-designated?

4 A February last year, I came over.

5 Q Let me ask you if you were -- and prior to working with
6 the DEA, what was your area of assignment?

7 A I've had several throughout my career.

8 Q Such as?

9 A I've worked in Internal Affairs. I've worked in Narcotic
10 Vice Division, Traffic Division.

11 Q Let me ask you, officer, if you were -- I guess they call
12 you task force agent, Agent Woodward. Is that -- Agent
13 Woodward, on the 6th of October of last fall, were you working
14 that day?

15 A Yes, I was.

16 Q 2002?

17 A Yes, I was.

18 Q Where were you working?

19 A Honolulu International Airport.

20 Q What was your detail that day, October 6 of 2002?

21 A We were called to assist the FBI in an investigation at
22 the airport.

23 Q What were you trying -- what were you doing to assist
24 them, the FBI?

25 A They were going to try and apprehend a suspect, Ricky Vo.

1 Q Is that person in the courtroom?

2 A Yes, he is.

3 Q Point to him and tell me what he's wearing, please.

4 A He's the gentleman seated to the right with the greenish
5 colored aloha shirt on.

6 MR. MUEHLECK: May the record reflect the witness has
7 indicated the defendant.

8 THE COURT: The record will so reflect.

9 BY MR. MUEHLECK:

10 Q What activities, what actions did you take that day,
11 October 6, in assisting the FBI at the airport?

12 A Well, I was part of the task force that was there, and
13 this is with the apprehension of Mr. Vo and his wife at the
14 airport.

15 Q Where were they arrested at the airport, sir?

16 A Fronting the Hawaiian Airlines baggage claim area inside
17 a vehicle.

18 Q And subsequent to their arrest, did you examine any items
19 for evidentiary value?

20 A Yes, I did.

21 Q What did you examine?

22 A Mr. Vo's telephone, cell phone.

23 Q And how did you examine it, sir?

24 A What I did is I turned it on and went through the
25 different things in the phone book and different modes of the

1 phone.

2 Q And do you recall if you -- what you found or if you
3 found anything at all?

4 A I found recent calls, I think there were 20 recent calls
5 it holds. I annotated that down on the note pad, and then I
6 went through the phone book. There's quite a few phone
7 numbers in his phone book.

8 Q A phone book is what on a cell phone?

9 A It's like your private phone book, it has names and
10 usually phone numbers of people that you can call directly
11 from it.

12 Q Do you recall off the top of your head any of the entries
13 in the phone book?

14 A Off the top of my head, he had, I think, his wife's
15 phone, he had somebody called "mom." I really can't remember
16 that many.

17 Q Did you keep notes?

18 A Yes, I did.

19 MR. MUEHLECK: Approach the witness, Your Honor?

20 THE COURT: You may.

21 BY MR. MUEHLECK:

22 Q Agent Woodward, take a look at the document I've given
23 you.

24 A Yes.

25 Q What is that that you have?

1 A This is a copy of the notes I took that night as I
2 entered all the information from the book or telephone.

3 Q When was it you were examining the defendant's cellular
4 phone in relationship to his arrest on the 6th of October?

5 A A couple hours after he was arrested.

6 Q And where were you when you were doing that?

7 A In our office at the airport.

8 Q Sitting at a desk doing this, I take it?

9 A Yes.

10 Q Turn that back over.

11 A (Complying).

12 MR. MUEHLECK: May I, Your Honor?

13 THE COURT: You may.

14 BY MR. MUEHLECK:

15 Q Agent Woodward, can you see that, what I'm holding?

16 A Yes, I can.

17 Q This number (818) 530-2456, do you know if you saw that
18 number when you reviewed the defendant's phone book on October
19 6?

20 A I can't recall without looking at my notes.

21 Q Take a look at your notes, see if that would refresh your
22 memory.

23 A There is that number in there without the prefix or the
24 area code, I mean.

25 Q Which number is in there?

1 A 530-2456.

2 Q Without the area code that I've covered up?

3 A Yes.

4 Q And --

5 A Oh, oh, sorry, no. It's even a different spelling of the

6 word. The number is there but the name is different.

7 Q How is the name spelled?

8 A C-R-A-P-S-E-M.

9 Q Slowly please for me. C-R --

10 A A-P-S-E-M.

11 Q C-R-A-S?

12 A C-R-A-P-S-E-M.

13 Q I'm sorry. Once more for the dummy.

14 A C-R-A-P-S-E-M.

15 Q C-R-A-P-S-E-M?

16 A Yes.

17 Q And that appears where in your notes in relationship to

18 the 530-2456?

19 A Right in front of it.

20 Q Were those two notations together?

21 A Yes.

22 MR. MUEHLECK: If I might, Your Honor, hold it up.

23 THE COURT: You may.

24 MR. MUEHLECK: (Complying.)

25 BY MR. MUEHLECK:

1 Q Agent Woodward, did you go back and look at the phone
2 since the October 6 of 2002?

3 A Yes, I did.

4 Q When did you go back and look at Mr. Vo's phone?

5 A Yesterday.

6 Q And what were you looking for?

7 A To see if there was an area code attached to it.

8 Q Attached to what?

9 A To that phone number 530-25 -- 2456.

10 Q And how -- the stuff -- were you able to find something
11 or look for something; is there still data on that phone?

12 A Yes, we had to put a new battery in it, but all the
13 information is still there.

14 Q And did you find an area code for the number 530-2456?

15 A Yes, I did.

16 Q What area code did you find?

17 A 818.

18 MR. MUEHLECK: Moment please, Your Honor.

19 Pass the witness.

20 THE COURT: Mr. Weight?

21 MR. WEIGHT: No questions.

22 THE COURT: Thank you. You're excused.

23 (Witness excused)

24 MR. MUEHLECK: Could we see the court, please?

25 THE COURT: Pardon me?

1 MR. MUEHLECK: Could we see the court, please?

2 THE COURT: You mean a sidebar?

3 MR. MUEHLECK: Yes, please.

4 (Bench conference on the record:)

5 MR. MUEHLECK: Run out of witnesses, Your Honor.

6 I've got pretty much Giglio and that's about it. I've got
7 a --

8 THE COURT: You know, you haven't given me the report
9 that you gave to Mr. Weight.

10 THE CLERK: He gave it to you.

11 THE COURT: Just gave me -- you gave two letters.

12 MR. MUEHLECK: I had sent --

13 THE COURT: It was a letter, two copies.

14 MR. WEIGHT: Mm-hmm.

15 MR. MUEHLECK: I didn't give Mr. Weight a report. I
16 never gave Mr. Weight the DEA report. I thought that was
17 clear. I'm sorry, Your Honor.

18 THE COURT: Mr. Weight seemed to have a lot of
19 information --

20 MR. MUEHLECK: Yes, I took it off the DEA report. I
21 went off -- I read --

22 THE COURT: He questioned Mrs. Vo on a number of
23 matters that were not on what you gave him, such as \$25,000
24 for a kilogram, San Francisco, a source -- source having been
25 killed.

1 MR. MUEHLECK: That's in the tapes, some -- source
2 being killed is in the cassette tapes. I offered them to Your
3 Honor's clerk to see if you wanted them. I gave Mr. Weight
4 the cassette recordings, the telephone recordings that he had,
5 the second guy. I have those available if the court wants to
6 hear them.

7 THE COURT: I mean I don't -- spinning wheels. I
8 don't know what he's gotten and what he hasn't gotten.

9 MR. MUEHLECK: Well, I gave Mr. Weight --

10 THE COURT: Just seems like practically everything --

11 MR. MUEHLECK: That's in the report by letter.

12 THE COURT: -- he's already asked.

13 MR. MUEHLECK: Yes.

14 THE COURT: Not in your letter but he's already asked
15 Mrs. Vo.

16 MR. WEIGHT: Well, I don't know that, Your Honor,
17 because I haven't seen what the report says. There may be a
18 veritable gold mine there --

19 THE COURT: I don't think so. Anyway, you -- you've
20 run out of witnesses?

21 MR. MUEHLECK: Yes, sir.

22 THE COURT: You have any -- your --

23 MR. MUEHLECK: I've got -- this is what's coming,
24 Judge. I have -- this is what's coming next week: I have in
25 the mail, they've promised me, some business records through

1 affidavit. We're going to offer them that way. I think
2 that's Nextel. And I have Fed Ex, I'm trying to get a local
3 witness for that. And I think that's it, Judge. The rest of
4 the issue is the Giglio -- the 404(b) issue, I think. I think
5 that's it, Judge. I think -- I believe that's all we have
6 left.

7 THE COURT: How long do you think your case is going
8 to be, Mr. Weight?

9 MR. WEIGHT: Half a day at the most.

10 MR. MUEHLECK: We're ahead of schedule. We're way
11 ahead of schedule.

12 THE COURT: I'll let the jury go. You want to
13 discuss a few things?

14 MR. MUEHLECK: Yes, sir.

15 (End of bench conference.)

16 THE COURT: We're going to have to let you go early
17 today. So you may leave. Please be back at 9 o'clock on
18 Tuesday. Have a nice weekend.

19 (At 2:05 p.m., the jury was excused and the following
20 proceedings were held:)

21 THE COURT: This is what you gave Mr. Weight, a
22 letter dated May 6, 2003 with -- well, and also a letter dated
23 May 7, 2003, and then two attachments, one referring to August
24 13th, '91, and the other referring to --

25 MR. MUEHLECK: November, Your Honor? I have to get

1 my copy, Your Honor.

2 MR. WEIGHT: Excuse me, Your Honor. What were those
3 dates, the letters that -- letters to me that you were given?

4 THE COURT: May 6 and May 7.

5 MR. MUEHLECK: And April 28th.

6 MR. WEIGHT: There's one on May 13th, which was a
7 couple days ago.

8 THE COURT: I don't think I have that. I have a lot
9 of various reports.

10 MR. MUEHLECK: (Handing document). That's the bulk
11 of it, Your Honor.

12 THE COURT: The bulk or all?

13 MR. MUEHLECK: That's the bulk of the DEA reports
14 concerning Brenda Cooper's sale in August --

15 THE COURT: Oh, this is -- this is -- this is what
16 Mr. Weight was reading from in cross-examining Mrs. Vo.

17 MR. MUEHLECK: I thought so.

18 THE COURT: This is what I was looking for. I didn't
19 receive that.

20 MR. MUEHLECK: I'm sorry, Your Honor. You didn't --
21 I thought you got that. I made a copy. I'm sorry. My
22 mistake. I know we -- we also talked to -- your law clerk and
23 I about giving you the -- there are four cassette tapes of
24 like six, seven calls, taped telephone calls, between Agent
25 Follis and Ms. Vo, which I provided to Mr. Weight. And the

1 law clerk advised he didn't think you wanted to listen to
2 calls over the noon hour. But they're still available.

3 THE COURT: Well, I think rather than listening to
4 the calls, if I find anything in the DEA files that you gave
5 me that are not included in these letters to Mr. Weight, then
6 I'll let you know on -- on Monday.

7 MR. MUEHLECK: Yes, sir.

8 THE COURT: And let Mr. Weight know on Monday.

9 MR. MUEHLECK: I -- yeah, right. I also gave him the
10 lab reports of the two compounds sold by Ms. Vo to the agents.
11 Two separate laboratory reports, Your Honor.

12 THE COURT: Looks like we will -- we will finish
13 testimony evidence on Tuesday. So we need to finalize the
14 jury -- I haven't seen the verdict yet.

15 MR. MUEHLECK: I haven't started on it, Your Honor.
16 We'll do that. We'll get that.

17 THE COURT: Okay. I think we better meet at, say,
18 2 o'clock on Monday. You both available then?

19 MR. MUEHLECK: I don't have my calendar. I know I've
20 got something that afternoon, Judge, with the court -- with
21 the District Court. I'm not -- I suppose I can get somebody
22 to handle that.

23 MR. WEIGHT: I have a sentencing that afternoon, I
24 believe, at 2:00 or 2:30, Your Honor.

25 MR. MUEHLECK: I have a change of plea, I know,

1 before Judge Mollway I'm saying -- I think 2:30.

2 MR. WEIGHT: I think it's Judge Mollway.

3 THE CLERK: Hold on.

4 MR. WEIGHT: Case name is Hacker.

5 THE CLERK: Wait just a second.

6 MR. MUEHLECK: Mine is Yun. May we approach?

7 THE COURT: You may.

8 MR. MUEHLECK: Thank you. Y-U-N.

9 THE CLERK: 2:15, that's yours.

10 MR. MUEHLECK: Okay.

11 MR. WEIGHT: Judge Mollway.

12 THE CLERK: 1:30? Hold on. Nothing. You don't have
13 anything with Mollway on Monday.

14 MR. MUEHLECK: I have something else.

15 THE CLERK: How about Judge Gillmor?

16 MR. WEIGHT: Could be Gillmor.

17 MR. MUEHLECK: I think I had something else. I took
18 something off. It may be just before the magistrate. That's
19 not a problem.

20 MR. WEIGHT: Doesn't appear on the calendar. That's
21 good enough for me.

22 MR. MUEHLECK: I can get somebody else to do that
23 change of plea, Judge. 2 o'clock is the only break you have,
24 that's fine.

25 MR. WEIGHT: Can I use your phone?

1 THE CLERK: Yeah, go ahead.

2 He's going to call his office, Your Honor.

3 THE COURT: Okay.

4 (Pause in the proceedings.)

5 MR. WEIGHT: That's fine. If it's not on the
6 court's calendar, good enough for me. I'm good then for the
7 afternoon on Monday. Court's convenience.

8 THE COURT: Okay. So you both are free in the
9 afternoon?

10 MR. MUEHLECK: Yes, sir, we can be.

11 MR. WEIGHT: We will be available.

12 THE COURT: Okay. 2 o'clock on Monday. And as I
13 understand it, the matters that I still have to rule on are,
14 as far as the 404(b), a prior conviction, and the cash in the
15 protein boxes, and the financing of the house, and also on
16 Giglio. And we also have to finalize the jury instructions
17 and approve the verdict form. Does that cover everything?

18 MR. WEIGHT: I think so, Your Honor.

19 MR. MUEHLECK: I believe so, Your Honor.

20 Did the court want the -- Ms. Vo here for that?

21 THE COURT: On Monday?

22 MR. MUEHLECK: (Nods head up and down).

23 THE COURT: I don't --

24 MR. MUEHLECK: I've made the proffer, as best I know
25 it, Judge.

1 THE COURT: You -- you made your proffer --

2 MR. MUEHLECK: Yes, sir.

3 THE COURT: -- for whatever it was worth.

4 MR. MUEHLECK: Judge, we take our witnesses as we
5 find them. That's what I understand.

6 THE COURT: If -- if you want her here, you can bring
7 her, but --

8 MR. MUEHLECK: No. No, I --

9 MR. WEIGHT: You want the defendant --

10 THE COURT: That's your proffer.

11 MR. MUEHLECK: No, I don't have anything more on
12 that, Judge. I was asking maybe if the court wanted her.
13 That's fine.

14 MR. WEIGHT: Would you like Rick here on Monday
15 afternoon then, Your Honor?

16 THE COURT: I think he should be here, yes.

17 MR. WEIGHT: Very well, Your Honor.

18 THE COURT: Have a nice weekend.

19 MR. MUEHLECK: Thank you, Your Honor. You too.

20 (The proceedings recessed at 2:17 p.m., May 16,
21 2003.)

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COURT REPORTER'S CERTIFICATE

I, CYNTHIA TANDO FAZIO, Official Court Reporter,
United States District Court, District of Hawaii, Honolulu,
Hawaii, do hereby certify that the foregoing pages numbered 1
through 162 is a correct transcript of the proceedings had in
connection with the above-entitled matter.

DATED at Honolulu, Hawaii, February 3, 2004.


CYNTHIA TANDO FAZIO, RMR, CRR